

**Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)**

Thursday, April 21, 2022 - 12:00 to 2:00 p.m.

Attended				Not Present
Judge Keith Kelly	Rob Denton	Alan Ormsby	Holly Thorson	Judge David Connors
Judge James Brady	Rob Ence	Andrew Riggle	Michelle Wilkes	Shane Bahr
Sarah Box	Xia Erickson	Danaka Robles	<b>Guests:</b>	Deborah Brown
TantaLisa Clayton	Leslie Francis	Keri Sargent	Nathanael Player	Wendy Fayles
Katie Cox	Nels Holmgren	Shonna Thomas	Sue Crismon	Nan Mendenhall
Brant Christiansen	Michelle Miranda	Katie Thomson	Jonathan Puente	James Toledo
				Todd Weiler
				Kaye Lynn Wootton

Agenda		
Topic	Presenter	Materials
<b>12:00 Meeting begins</b>		
<ul style="list-style-type: none"> <li>Housekeeping, minutes</li> </ul>	Judge Kelly	1. <i>WINGS Minutes (February 2022 – draft)</i>
<b>12:05 Guest Topics</b>		
<ul style="list-style-type: none"> <li>Accessibility in the Courts – Office of Fairness and Accountability</li> </ul>	Judge Kelly <b>Guest Attendee:</b> Jonathan Puente	
<ul style="list-style-type: none"> <li>Accessibility in the Courts – Office of Legal Services Innovation</li> </ul>	Judge Kelly <b>Guest Presenters:</b> Nathanael Player Sue Crismon	
<b>12:50 Stakeholder Updates</b>		
<ul style="list-style-type: none"> <li>GRAMP                             <ul style="list-style-type: none"> <li>Court Visitor Program Funding</li> <li>District Court Conference</li> </ul> </li> <li>Other                             <ul style="list-style-type: none"> <li>In-person hearings</li> </ul> </li> </ul>	Stakeholders	2. <i>Common Pitfalls (DCJC 2022)</i>
<b>1:00 New &amp; Ongoing Projects</b>		
<ul style="list-style-type: none"> <li>HB 320 – Guardianship Bill of Rights</li> </ul>	Group Discussion	3. <i>HB0320</i> 4. <i>SB0155</i> 5. <i>Rule 6-501 (Redline 04.04.2022)</i>
<ul style="list-style-type: none"> <li>Reporting requirements for limited guardian</li> <li>Informal vs. formal accounting forms</li> </ul>	Brant Christiansen	6. <i>Utah Code 75-5-304</i> 7. <i>Utah Code 75-5-312</i> 8. <i>Edits – 75-5-304 and 75-5-312(f)(v)</i>
<ul style="list-style-type: none"> <li>Utah Code 75-5-303</li> </ul>	Group Discussion	9. <i>Utah Code 75-5-303 (to discuss)</i> 10. <i>A Guide to Guardianship Medical Evaluations (Foster, Denton, Alderman)</i> 11. <i>The Challenges of Submitting Competent Medical Evidence of Incapacity (Denton)</i>
<b>1:50 Other Business</b>		
<ul style="list-style-type: none"> <li></li> </ul>		
<b>2:00 Meeting adjourned</b>		

## Housekeeping

- Meeting began at 12:07pm.
- A motion was made to approve the minutes from the previous meeting (February 2022). The motion was seconded and approved.
- Meeting adjourned at 2:00pm.

## Guest Topics

### Accessibility in the Courts - Office of Fairness and Accountability

Jonathan Puente ([jonathanp@utcourts.gov](mailto:jonathanp@utcourts.gov)) presented to WINGS on the purpose and services offered by the Office of Fairness and Accountability.

- In 1996, the Utah Court established a task force on race and ethnicity in the courts.
- The task force spent 5 years collecting data to identify gaps in the court system.
- In 2000, the task force submitted their findings to the Judicial Council and Utah Supreme Court.
- Two items stood out in their report: (1) racial disparity - people of color were overrepresented in the criminal adjudication process; (2) perception of bias - people of color did not feel that they would be treated fairly by the court system.
- No action was taken on the report until 2020, when the report was revived due to the social unrest occurring across the state and country.
- One of the recommendations in that report was to establish an office within the Court, and the Office of Fairness and Accountability (OFA) was created in 2021 as a result.

The OFA's mission is to remove any racism and bias from the courts. OFA uses a comprehensive definition of diversity to include those in the LGBTQ+ community, individuals with disabilities, veterans, and racial and ethnic minorities.

The OFA has several ongoing projects, with a current focus of decreasing the racial disparity in the court system. Because it is a systemic issue, they put together a work group with representatives from the various parts of the system (e.g., law enforcement, community stakeholders, district and justice court judges). The work group is identifying points along the criminal adjudication process that may trigger a racial disparity.

They are also working on collecting more reliable, self-identified data through MyCase, that will allow them to better gauge potential disparities amongst specific groups, including the disability community and individuals with mental illness.

The OFA is still in the early stages of meeting their mission goals. They do intend to address the same issues on the civil side as well, once they are fully up and running on the criminal court side. (The Juvenile court is about a year ahead of the rest, as they already had reliable data from which to work.)

### Accessibility in the Courts – Office of Legal Services Innovation

Nathanael Player and Sue Crismon (Executive Director, Offices of Legal Services Innovation), presented to WINGS on the purpose and services offered by this office.

- There is a crisis of access to justice in the United States. There is also a fundamental change in the market. Rather than seeking the services of an attorney, many people search the internet to try and find what they need to do it themselves.

- The rules of professional conduct were written for the older model. The rule has always been that only lawyers can practice law and it is illegal to practice law in Utah without a license. The rule also limits who can pay for and develop legal technologies.
- The Office of Legal Services Innovation, sometimes called the “Sandbox,” was created by the Utah Supreme Court in 2020, to regulate the non-traditional practice of law.  
(<https://utahinnovationoffice.org/>)
- A regulatory sandbox is an open door that has traditionally been closed. The sandbox is not an independent program or a service; it is an opportunity to provide legal services in new ways – with proper training and oversight.
- The Sandbox removes the limitations on the practice of law (e.g., representation, drafting legal documents, giving advice and negotiation, technology development, financing).
- The Sandbox allows do-it-yourself online and other resources to step over the line of legal information to legal advice, with regulation from the Office of Legal Services Innovation.
- The levels of innovation include:
  - Low level - a lawyer employed by a non-lawyer to provide services, sharing profits between non-lawyers and lawyers.
  - Moderate level - software or non-lawyers providing legal services with lawyer training and involvement.
  - High level - software or non-lawyers providing legal services without lawyer involvement.
- There are not any current Sandbox projects designed to assist persons with disabilities or mental health issues. Most of what they have seen thus far are alternative business structures and new software provision of service, which could touch on individuals with disabilities, but is not necessarily geared toward that population.

## Stakeholder Updates

### GRAMP

- **Court Visitor Funding** – GRAMP asked for additional funding for a second Court Visitor Program Coordinator. This funding request was granted by the Utah Legislature. Holly Thorson has been working in this role as a temporary employee, and she will transition to a full-time court employee on July 1, 2022. Thank you to all WINGS stakeholders who provided feedback and letters of recommendation to help GRAMP secure this additional funding.
- **District Court Conference** – WINGS stakeholders Judge Kelly, Leslie Francis, Brant Christensen, Michelle Wilkes, and Shonna Thomas participated in a presentation and panel discussion on key guardianship topics at the conference in March. (A recorded message from Kaye Lynn Wooten was also shared during the presentation.)

The presentation focused on “Common Pitfalls” that occur often in guardianship cases, as identified from feedback by WINGS stakeholders. It was aimed at assisting judges navigate past those pitfalls. The presentation was well-received, and the feedback given afterwards indicated that the information provided was helpful to the judges in attendance.

### Other

- **In-person hearings** – A new order from Chief Justice Durrant indicates that some in-person hearings may start occurring again, at the discretion of the assigned judge. The court may consider a hybrid approach to hearings moving forward. WINGS should continue monitoring this subject, with its impact on access to justice and its agreement with Utah Code.

WINGS may want to consider developing recommendations for judges to consider in guardianship cases to help them decide whether to hold the hearing in person or virtually.

## New & Ongoing Projects

### HB 320 – Guardianship Bill of Rights

During the recent legislative session, HB 320 was passed, introducing a new Guardianship Bill of Rights. This has been added to the Utah Code as 75-5-301.5. Some of the language in the code impacted existing forms and called for the creation of new forms.

- The annual financial accounting form must now include language about trusts.
- The Motion to Terminate form was revised to “Motion to Review, Terminate, or Remove Guardian or Conservator” to address language in the statute that allows for a review of the guardianship appointment at any time.
- A new form was created by the Forms committee, “Motion to Change Accounting Report Requirements.” This form was not created with input from WINGS, due to the time constraints.

WINGS will want to review these new forms and changes and provide feedback to ensure they fulfill the requirements in the new statute, while continuing to align with the other statutes and practices for guardianship and conservatorship proceedings.

(The Probate subcommittee has reviewed the draft Rule 6-501 considering the new Bill of Rights. The subcommittee identified one area, in which the rule states that notice must be given to the respondent, based upon age and mental capacity. The Bill of Rights does not include language related to mental capacity. That phrase was removed from the draft of Rule 6-501.)

#### Decisions made -

- Shonna will send to all WINGS stakeholders the new and revised forms once they are available.
- The May Executive Committee meeting will be expanded to include a discussion on this topic. WINGS stakeholders who are interested in participating are welcome and encouraged to do so.
- This item will remain on the WINGS agenda, to include looking at ways to provide education to judges on 75-5-301.5, such as Brown Bag sessions or upcoming conference presentations.

### Reporting Requirements for Limited Guardian & Informal vs. Formal accounting forms

These items will be discussed in greater detail alongside the discussion on HB 320 and Utah Code 75-5-301.5.

- WINGS stakeholders should consider the new proposed language in 75-5-304, which suggests that if an order limits a guardian’s ability to access financial information, then they wouldn’t be required to complete the annual financial accounting to the court. Feedback from stakeholders on that proposed change would be helpful.
- Utah Code 75-5-312(3)(f)(v) details two types of reports – informal and regular. However, the code does not really distinguish between what each form should include, and the court does not currently offer forms for these different report types. For discussion, should there be two different forms to align with the code, or would a legislative fix to remove the distinction would more appropriate?

#### Decisions made -

- These items will be included in the discussion at the next Executive Committee hybrid meeting.
- These items will remain on the WINGS agenda.

### Utah Code 75-5-303

- Due to time constraints, discussion on this topic is deferred to the June meeting.

<b>Other Business</b>	
<ul style="list-style-type: none"> <li>• For stakeholders unable to attend a WINGS meeting, the meetings are being recorded via WebEx. If interested, reach out to Shonna for the link to review the recording.</li> </ul>	

<b>Action Items</b>	
<p><b>HB 320 – Guardianship Bill of Rights</b></p> <ul style="list-style-type: none"> <li>– Send to all WINGS stakeholders the new and revised forms once they are available.</li> <li>– Send the Executive Committee meeting invite to WINGS stakeholders interested in participating in the discussion.</li> </ul>	<p>Shonna Thomas</p>

<b>Deferred / Continuing Items</b>	
<ul style="list-style-type: none"> <li>– Stakeholder Updates</li> <li>– Project Updates             <ul style="list-style-type: none"> <li>○ Rule 6-501, report coversheet, and review of appointment across time</li> <li>○ Rule 6-507</li> <li>○ Rules 1-205 &amp; 3-421 (June meeting)</li> </ul> </li> <li>– Utah Code 75-5-301.5 and new/revised forms</li> <li>– Reporting requirements for limited guardian, informal vs. formal accounting forms</li> <li>– Utah Code 75-5-303</li> </ul>	

<b>Next Meeting(s):</b>	<p>June 16, 2022          August 18, 2022          October 20, 2022          December 15, 2022          February 16, 2023</p>
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